

# EXHIBIT 6



**MONICA MCCARROLL**

Partner

P. 571.377.9960

E. [mmccarroll@redgravellp.com](mailto:mmccarroll@redgravellp.com)

[www.redgravellp.com](http://www.redgravellp.com)

4800 Westfields Boulevard, Suite 250  
Chantilly, Virginia 20151

**VIA Electronic Mail**

March 13, 2025

Minae Yu, Esq.  
GIBSON, DUNN & CRUTCHER LLP  
333 South Grand Avenue  
Los Angeles, California 90071-3197  
[myu@gibsondunn.com](mailto:myu@gibsondunn.com)

Re: *Dale v. Deutsche Telekom AG*, Case No. 1:22-cv-03189 (N.D. Ill.)

Dear Minae,

I am writing to provide a more detailed response to your letter of March 4, 2025. I incorporate by reference my initial response sent on March 10, 2025.

At the outset, I wish to address Viola Li's email dated March 11, 2025. While I recognize that T-Mobile has offered to agree to amend the entered confidentiality order, I fail to see how it is in the spirit of compromise to offer again the same proposal that DISH has previously pointed out is insufficient to protect its highly sensitive competitive commercial information. T-Mobile's offer claims to "restrict access to highly confidential materials to four in-house counsel who are not involved in competitive decision making." During conferral on February 19, 2025, T-Mobile informed DISH that two of the four in-house counsel purportedly not involved in competitive decision-making would be Heather Johnson and January Kim.<sup>1</sup> Our understanding is that Heather Johnson leads T-Mobile's antitrust efforts and January Kim reports to her.

"[M]erely insisting that one is not 'involved in competitive decision-making' cannot pretermit inquiry into the underlying facts or serve as a shibboleth the mere invocation of which permits access to Highly Confidential Information." *FTC v. Advocate Health Care Network*, 162 F.Supp.3d 666, 669 (N.D. Ill. 2016) (Cole MJ). It is simply not credible that two of T-Mobile's senior antitrust counsel who advise T-Mobile on antitrust and competition issues, including mergers and acquisitions and regulatory compliance, are "not involved in competitive decision making,"

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<sup>1</sup> To date, T-Mobile has not revealed the names of the other two in-house counsel. In Viola Li's February 25, 2025, email, she wrote: "We will let you know if other attorneys that may need to access confidential materials." It is unreasonable for T-Mobile to expect DISH to accept T-Mobile's proposal without even knowing the identities of all four T-Mobile in-house counsel who would be permitted access to DISH's highly sensitive competitive commercial information.



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including not being involved in “decisions regarding contracts, marketing, pricing, product, or service development or design, product or service offerings, research and development, or licensing, acquisition, or enforcement of intellectual property rights.” Involvement in mergers and acquisitions is inherently within the scope of competitive decision-making. *FTC v. Sysco Corp.*, 83 F.Supp.3d 1, 4 (D.D.C. 2015). In *Silversun Industries*, even without decision-making authority, the mere presence of in-house counsel at meetings in which competitive decisions were discussed was sufficient to bar those in-house counsel from accessing highly confidential competitive information. *Silversun Industries, Inc. v. PPG Industries, Inc.*, 296 F.Supp.3d 936, 941 (N.D. Ill. 2017) (Cole MJ) (citing *Sysco*, 83 F.Supp.3d at 3-4 (D.D.C. 2015)). T-Mobile is represented by Gibson Dunn and WilmerHale in this matter. “[G]iven the extraordinarily sophisticated, experienced and talented counsel in this case,” it does not seem likely that T-Mobile’s outside counsel would be “hamstrung in their trial preparations without input from in-house counsel.” *Advocate Health Care Network*, 162 F. Supp.3d at 672. It appears that we are at impasse regarding the reasonable modifications to the confidentiality order entered in this matter that DISH requested to appropriately protect DISH’s confidential information. Accordingly, any supplemental production that has been withheld subject to resolution of the confidentiality order will be further delayed pending the Court’s ruling on this topic.

Turning to your March 4 letter, DISH appreciates that T-Mobile has demonstrated some willingness to find a middle ground between its requests and DISH’s responses and objections to them, but we are disappointed that any such movement was confined to just a handful of your 34 requests. Moreover, some of your willingness to “attempt to resolve any disputes without having to bring them to the Court” is contingent upon DISH producing *more* documents and information, increasing the significant burdens already placed upon DISH by your subpoena. Nonetheless, DISH remains committed to trying to resolve as many issues as possible without Court intervention and remains available for conferral on Friday, March 14, 2025, after 9am PT/12pm ET.

***Requests Where No Further Action Appears to Be Required at This Time (Request Nos. 1, 2, 3, 4, 9, 14, 22, 28, 34)***

**Request Nos. 1 and 2:**

T-Mobile agreed to table these requests until DISH supplements its productions. As noted above, DISH’s supplemental productions will necessarily be delayed until such time as the appropriate modifications to the confidentiality order are resolved by the Court.

**Request No. 3:**

T-Mobile’s demand that DISH “confirm” that it has produced *all* information responsive to this request and “expl[ain] its search methodology” as a condition for resolving this request is wholly inappropriate. “Principle 6 of the Sedona Principles states, ‘[r]esponding parties are best situated to evaluate the procedures, methodologies, and technologies appropriate for preserving and producing their own electronically stored information.’” *LKQ Corp. v. Kia Motors America, Inc.*, 345 F.R.D. 152, 162 (N.D. Ill. 2023) (quoting The Sedona Principles, Third Edition: Best

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Practices, Recommendations & Principles for Addressing Electronic Document Production, 19 Sedona Conf. J. 1, 118 (2018)). Further, “Comment 6.b explains that ‘there should be no discovery on discovery, absent an agreement between the parties, or *specific, tangible, evidence-based indicia* (versus general allegations of deficiencies or mere ‘speculation’) of a material failure by the responding party to meet its obligations.’” *Id.* (italics in original). T-Mobile has not pointed to any specific, tangible, evidence-based indicia of DISH’s material failure to meet its obligations because T-Mobile cannot. T-Mobile’s demand for DISH’s search methodology is not even rooted in mere speculation. Rather, this meritless demand is yet another instance of the actual parties in this litigation improperly treating DISH as a party in all but name. We again remind you that DISH is a non-party, and as such “ha[s] a different set of expectations” from parties. *Uppal v. Rosalind Franklin Univ. of Medicine and Science*, 124 F.Supp.3d 811, 813 (N.D. Ill. 2015) (Cole, MJ). As DISH has previously advised, it plans to supplement its response to this request once the Court rules on an appropriate confidentiality order that properly protects the sensitive information contained in its reports to the Monitoring Trustee and confidential submissions to the FCC in WT Docket 22-212. When this supplemental production is made, DISH will consider its response to this request complete. DISH will not be confirming or explaining how it has searched for documents responsive to this request.

**Request No. 4:**

DISH refers T-Mobile to the Network Services Agreement included as Exhibit 10.1 to its Form 10-Q for the quarterly period ended September 20, 2021.

**Request No. 9:**

DISH will supplement its productions following the Court’s resolution of its reasonable request for an appropriate modification of the entered confidentiality order to include protections sufficient to safeguard the confidentiality of DISH’s highly sensitive competitive commercial information. This supplemental production will include the remainder of the quarterly reports DISH submitted to the Monitoring Trustee from May 2021 to June 2024 as well as confidential submissions to the FCC in WT Docket 22-212 connected to DISH’s 5G buildout status reports from the relevant timeframe. These documents contain information sufficient to show DISH’s coverage area.

**Request No. 14:**

DISH’s response to this request is complete.

**Request No. 22:**

DISH objects to T-Mobile’s request that DISH produce additional information in response to this request when you acknowledge there is publicly available information that resolves your inquiry. Without waiving its objection, DISH refers T-Mobile to its Form 10-K for the fiscal year ended December 31, 2024.

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**Request No. 28:**

As noted in my March 10, 2025, email, DISH received T-Mobile's and Plaintiffs' combined list of questions about its structured data fields, and we hope to have a response to you and Plaintiffs by the end of this week. We believe DISH's forthcoming response will address the questions regarding Request No. 28 set out in your letter but remain willing to confer following your receipt of that information.

**Request No. 34:**

DISH reiterates its position that any discovery seeking DISH's communications with Plaintiffs should be obtained from Plaintiffs, not DISH. Seeking this information from a non-party when it can be sought from the opposing party is in direct contradiction of T-Mobile's duty under Rule 45 to "take reasonable steps to avoid imposing undue burden or expense" on DISH. Fed. R. Civ. P. 45(d)(1).

***Requests for Custodial Data (Request Nos. 5, 10, 12, 13, 16, 18, 20, 21, 24):***

DISH restates its objections to all requests for custodial data on the grounds that such requests are unduly burdensome on their face and T-Mobile has failed to show a substantial need for this data. Any discovery issued to a non-party is "an unwanted burden thrust upon" the non-party. *Rossmann v. EN Engineering, LLC*, 467 F.Supp.3d 586, 590 (N.D. Ill. 2020) (Cole, MJ). However, the efforts required to collect, process, search, review, and produce custodial data are particularly onerous. *Delgado v. Donald J. Trump for President, Inc.*, No. 19-CV-11764 (AT) (KHP), 2024 WL 3730499, at \*3 (S.D.N.Y. May 13, 2024) (denying a motion to compel a non-party to produce data for multiple custodians over a one-and-a-half-year period because the costs and time involved in the collection, hosting, processing, and responsiveness and privilege review of the custodial data were an undue burden "given the speculative and marginal value of the information" sought). T-Mobile will have ample support for its defenses based on its own documents, discovery obtained from Plaintiffs, discovery that can be obtained from other non-parties, publicly available information, and discovery already obtained from DISH.

Further, DISH is prepared to supplement its productions with structured data and the remaining Monitoring Trustee and FCC buildout reports following appropriate modification of the entered confidentiality order to include protections sufficient to safeguard the confidentiality of DISH's highly sensitive competitive commercial information. T-Mobile's insistence that DISH undertake the burdens associated with custodial discovery in addition to the burdens DISH has already assumed with its productions to date and the productions it stands willing to make is disproportionate to the needs of this case. T-Mobile's proposed search terms that it wants DISH to run against data associated with 8 high-level custodians are not targeted at unique and relevant information that can be found *only* in DISH's custodial data; to the contrary, the proposed search terms are broad and overlapping, the types of terms that parties tend to exchange when they are not certain what they are seeking, but are hopeful the right combination of words and connecters will return a higher percentage of responsive documents versus non-responsive. While this approach



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to search terms may be appropriate for parties embarking on discovery at the start of a matter, it falls far short of “reasonable steps to avoid imposing undue burden or expense” on DISH. To the extent that T-Mobile can establish a substantial need for custodial data, DISH is willing to confer about running a limited set of search terms against the email accounts associated with a limited number of custodians for a limited time period. Otherwise, DISH stands on its objections to Request Nos. 5, 10, 12, 13, 16, 18, 20, 21, and 24.

***Requests for Subscriber-Level Structured Data (Request Nos. 17, 19, 26, 27):***

DISH restates that it is prepared to produce structured data for its Boost Mobile brand following appropriate modification of the entered confidentiality order to include protections sufficient to safeguard the confidentiality of DISH’s highly sensitive competitive commercial information. That structured data would include data for former subscribers of Republic Wireless. As of August 2023, all Republic Wireless customers were transitioned to Boost Mobile and Republic Wireless was deprecated as a brand. DISH no longer maintains separate data for former Republic Wireless customers outside of the data it maintains for Boost Mobile.

DISH stands on its objections to T-Mobile’s requests seeking irrelevant subscriber-level structured data for its MVNO brands Gen Mobile and Ting Mobile. Based on your prior representations on this topic, it appears we are at impasse here.

***“Go Get” Requests (Request Nos. 6, 7, 8, 11, 15, 23, 25, 29, 30, 31, 32, 33):***

As a threshold matter, T-Mobile’s expectation that DISH can and should “go get” various documents and information in response to these requests again demonstrates your misunderstanding of DISH’s role as a non-party here. Declaring that DISH’s structured data reports are not sufficient for your needs and demanding that DISH conduct discovery according to your instructions does not constitute “reasonable steps to avoid imposing undue burden or expense” on DISH.

**Request Nos. 6, 7, 8, 23, 25, 30, 31:**

DISH requests that T-Mobile reevaluate its concerns regarding whether the data fields in the structured data DISH stated it would produce captured information responsive to these requests after T-Mobile receives DISH’s answers to the questions posed in your March 6, 2025, email.

**Request No. 11:**

DISH will supplement its productions following the Court’s resolution of its reasonable request for an appropriate modification of the entered confidentiality order to include protections sufficient to safeguard the confidentiality of DISH’s highly sensitive competitive commercial information. This supplemental production will include submissions to the FCC that include information related to DISH’s buildout of its spectrum holdings. DISH stands on its objections as to the remainder of this request.

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**Request No. 15:**

DISH will supplement its productions following appropriate modification of the entered confidentiality order to include protections sufficient to safeguard the confidentiality of DISH's highly sensitive competitive commercial information. This supplemental production will include the remainder of the quarterly reports DISH submitted to the Monitoring Trustee from May 2021 to June 2024. These documents contain information sufficient to show the information sought in this request.

**Request No. 29:**

DISH will supplement its productions following the Court's resolution of its reasonable request for an appropriate modification of the entered confidentiality order to include protections sufficient to safeguard the confidentiality of DISH's highly sensitive competitive commercial information. This supplemental production will include the confidential drive test results DISH submitted and verified with the FCC in connection with WT Docket 22-212.

**Request Nos. 32 and 33:**

As you note in your letter, DISH has directed T-Mobile to its prior productions and to publicly available information in response to Request Nos. 32 and 33. DISH stands on its objections regarding any additional response to Request No. 32. As to Request No. 33, DISH does not maintain the requested data on a subscriber-by-subscriber basis.

Please let us know if you have any questions.

Sincerely,

*Monica McCarroll*

Monica McCarroll

cc: Clifford E. Yin

